

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JAMES PAVATT,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-10-141-F
)	
JUSTIN JONES, in his capacity as)	
Director of the Oklahoma Department)	
of Corrections, et al.,)	
)	
Defendants,)	
)	
JEFFREY D. MATTHEWS,)	
)	
Intervenor.)	

ORDER

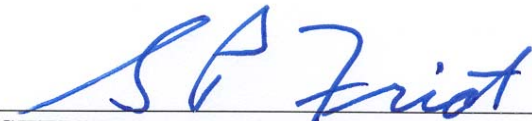
For the reasons stated on the record in the hearing held on this date on the application of Jeffrey D. Matthews to intervene and for a stay of his execution, scheduled to occur at 6:00 p.m. on this date, the Emergency Motion to Intervene (doc. no. 30) is **GRANTED**, and the Emergency Application for Stay of Execution (doc. no. 33) is **GRANTED**. The stay will expire on October 16, 2010. The court will hear the intervenor's application for preliminary injunction at 9:00 a.m. on October 15, 2010.

The Oklahoma Department of Corrections learned in mid-July, 2010 that the dose of sodium thiopental intended for use in the execution of Mr. Matthews had expired. Alternative means (compounding) of acquiring sodium thiopental were unavailing. The Department of Corrections, through counsel for the defendants, informed counsel for Mr. Matthews on August 16, 2010 that sodium thiopental is unavailable for purposes of the execution scheduled to take place at 6:00 p.m. today. Because it was clearly established at the hearing that the intervenor was not aware of the facts upon which the Emergency Motion and the Emergency Application are based until yesterday, August 16, 2010, the court

concludes that the very weighty considerations which ordinarily compel denial of eleventh hour applications such as these are inapplicable here. *See, e.g., Hamilton v. Jones*, 472 F.3d 814, at 815 - 16 (10th Cir., 2007); *Patton v. Jones*, 193 Fed. Appx. 785, at 789, n. 1 (10th Cir. 2006).

Other procedural matters will be addressed in a separate order.

Dated this 17th day of August, 2010.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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